

Kirk D. Miller, WSBA #40025
Kirk D. Miller, P.S.
421 W. Riverside Avenue, Ste. 660
Spokane, WA 99201
(509) 413-1494 Telephone
(509) 413-1724 Facsimile

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROSE BORN, on behalf of herself and)	
all others similarly situated,)	Case No.:
)	
Plaintiff,)	COMPLAINT
)	
vs.)	(JURY DEMANDED)
)	
STATE COLLECTION SERVICE,)	
INC., a Foreign Profit Corporation,)	
)	
Defendant.)	
)	
)	

Plaintiff Rose Born, on behalf of herself and all others similarly situated, by and through her attorney, Kirk D. Miller of *Kirk D. Miller, P.S.*, alleges the following:

I. COMPLAINT

1.1. This is an action for damages and remedies against STATE COLLECTION SERVICE, INC. (hereinafter "Defendant State"), pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et*

1 *seq.*, (“FDCPA”), Washington Collection Agency Act, RCW 19.16, *et*
2 *seq.*, (“WCAA”), and Washington’s Consumer Protection Act, RCW
3 19.86, *et seq.*, (“CPA”).

4 II. JURISDICTION & VENUE

5 2.1. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C.
6 § 1337, and 28 U.S.C. § 1331. Declaratory relief is available pursuant
7 to 28 U.S.C. § 2201 and § 2202.

8 2.2. Supplemental jurisdiction of this Court over state law claims alleged
9 herein arises under 28 U.S.C. § 1367.

10 2.3. Venue is proper in this District under 28 U.S.C. § 1391(b) because the
11 Defendant conducts affairs and transacts business in this District, and
12 the unlawful acts giving rise to this Complaint occurred in this District.

13 III. FEDERAL QUESTION 14 SUBJECT MATTER JURISDICTION

15 3.1. Plaintiff Rose Born is a “consumer” as defined by the FDCPA 15
16 U.S.C. § 1692a(3).

17 3.2. Plaintiff Born is a natural person.

18 3.3. Plaintiff Born was alleged to be obligated to pay a debt to Defendant
19 State.
20

1 3.4. Plaintiff Born's alleged debt was an obligation to pay money to
2 Defendant State arising out of a transaction primarily for personal,
3 family, or household purposes.

4 3.5. Specifically, the debt that Defendant State alleges Plaintiff Born owes
5 is for charges related to a hospital bill.

6 3.6. Defendant State is a "debt collector" as defined by the FDCPA, 15
7 U.S.C. § 1692a(6).

8 3.7. Defendant State is a "collection agency" as defined by RCW
9 19.16.100(4).

10 3.8. Defendant State is an "out-of-state collection agency" as defined by
11 RCW 19.16.100(10).

12 3.9. Defendant State's conduct is regulated by the FDCPA.

13 3.10. Defendant State's conduct is regulated by the WCAA, RCW 19.16, *et*
14 *seq.*

15 IV. PARTIES

16 4.1. At all relevant times, Plaintiff Rose Born was a resident of the state of
17 Washington, residing within the territorial jurisdiction area of the
18 United States District Court for the Eastern District of Washington.

1 4.2. Defendant State is a Wisconsin-based business primarily engaged in the
2 business of collecting debts on behalf of creditors in the state of
3 Washington and elsewhere.

4 V. FACTS

5 5.1. In January 2018, Plaintiff was treated for a serious medical condition at
6 MultiCare Deaconess Hospital in Spokane, WA.

7 5.2. MultiCare billed Plaintiff Born for the services it claimed to have
8 performed for her.

9 5.3. Plaintiff could not afford to pay the balance in full at the time that she
10 was billed.

11 5.4. Plaintiff made periodic payments to MultiCare for the billed charges.

12 5.5. MultiCare assigned collection of the billed charges to Defendant State.

13 5.6. In October 2018, when Plaintiff contacted MultiCare to pay off her
14 remaining balance, she was told by the MultiCare billing department
15 that her account had been assigned to “state collections”.

16 5.7. Plaintiff understood that “state collections” meant that the debt was
17 being collected by the state of Washington.

18 5.8. Plaintiff also believed that the consequences of a government entity
19 collecting a debt could have more dire consequences than if a private
20 company was going to collect.

1 5.9. The implication that the debt had been assigned to the state of
2 Washington for collection caused Plaintiff to experience undue worry,
3 anxiety, frustration, and other negative emotions.

4 5.10. In November 2018, Plaintiff contacted Defendant State by telephone
5 and confirmed that it is indeed a debt collector that operates under the
6 name State Collection Service.

7 5.11. Defendant State routinely identifies itself to consumers in telephone
8 communications as “State Collection Service”, omitting the only
9 reference that the debt collector may be a company and not affiliated
10 with an actual state.

11 5.12. Defendant State identified itself to Plaintiff as State Collection Service
12 in the telephone communication.

13 5.13. In November 2018, Plaintiff Born received a communication in the
14 form of a letter from Defendant State dated November 7, 2018.

15 5.14. Defendant State’s November 7, 2018, letter alleged Plaintiff Born owed
16 sixty dollars and forty-seven cents (\$60.47).

17 5.15. Nowhere did the November 7, 2018 letter disclose that Defendant State
18 is not affiliated with any actual state or government entity.

19 5.16. Plaintiff paid Defendant State the full amount of the claimed charges,
20 in the amount of sixty dollars and forty-seven cents (\$60.47).

VI. VIOLATIONS OF WASHINGTON CONSUMER
PROTECTION ACT, RCW 19.16, *et seq.*

- 6.1. Defendant State routinely holds itself out as “State Collection Service”.
- 6.2. Defendant State is not affiliated with any state or government, or any agency of a state or government entity.
- 6.3. Defendant State violated RCW 19.16.250(4), which prohibits Washington collection agencies from “mak[ing] any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business”.
- 6.4. The name “State Collection Service” indicates that Defendant has an official connection with a state.
- 6.5. Defendant State violated RCW 19.16.250(20), which prohibits any collection agency from “[i]n any manner convey[ing] the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.”
- 6.6. Defendant State’s violations of RCW 19.16.250(4) and (20) are per se unfair and deceptive acts or practices pursuant to RCW 19.16.440.
- 6.7. Defendant State’s violations of RCW 19.16.250(4) and (20) affect the public interest as they have the capacity to injure other persons.

1 6.8. Defendant State’s unlawful collection activities impact not only
2 Washington consumers but also creates an unfair advantage over other
3 collection agencies that abide by Washington State Law.

4 6.9. Defendant State’s illegal use of its name occurred in its trade as a
5 collection agency and, specifically, in the act of collecting claims from
6 Washington consumers.

7 6.10. Defendant State’s actions caused Plaintiff to suffer harm in her business
8 or property.

9 6.11. A violation of the Washington Collection Agency Act “constitute[s] a
10 per se violation of the Washington Consumer Protection Act.” RCW
11 19.86, *et seq. Evergreen Collectors v. Holt*, 60 Wn. App. 151, 157, 803
12 P.2d 10, 13 (1991).

13 VII. VIOLATIONS OF THE FDCPA

14 7.1. Defendant’s use of the name “State Collection Service” violates 15
15 U.S.C. § 1692e(1), which prohibits any debt collector from giving
16 “[t]he false representation or implication that the debt collector is
17 vouched for, bonded by, or affiliated with the United States **or any**
18 **State**, including the use of any badge, uniform, or facsimile thereof.”
19 (emphasis added).

1 7.2. The implication that the debt has been assigned to the state for
2 collection necessarily creates a false representation of the legal status
3 of the debt, in violation of 15 U.S.C. § 1692e(2)(A).

4 7.3. All communications from Defendant State to Plaintiff Born and any
5 other Washington consumer, which included in whole or part the name
6 “State Collection Service” were unfair attempts to collect amounts not
7 permitted by law in violation of § 1692f.

8 VIII. CLASS ALLEGATIONS

9 8.1. This action is brought on behalf of a class consisting of:

10 8.1.1. All persons residing in Washington State who received a
11 communication from Defendant State Collection;

12 8.1.2. For purposes of the WCPA, all persons and businesses who,
13 within (4) four years preceding the filing of this Complaint,
14 received any communication from Defendant State that was an
15 attempt to collect a claim;

16 8.1.3. For purposes of the FDCPA, all consumers who, within (1) one
17 year preceding the filing of this Complaint received any
18 communication from Defendant State that was an attempt to
19 collect a debt; and

8.1.4. Where such communication contained any reference, in whole or part, to the name “State Collection Service”;

8.2. Plaintiff Born has the same claims as the members of the class. All of the claims are based on the same factual and legal theories.

8.3. Plaintiff Born will fairly and adequately represent the interests of the class members. She is committed to vigorously litigating this matter.

8.4. Neither Plaintiff Born nor their counsel have any interests which might cause them not to vigorously pursue this claim.

8.5. A class action is a superior method for the fair and efficient adjudication of this controversy.

8.6. Class wide damages and injunctive relief are essential to induce Defendant State to comply with the law.

8.7. In the (1) one year prior to the filing of this Complaint, Defendant communicated using the name State Collection Service with more than one hundred Washington residents.

8.8. In the (4) four years prior to the filing of this Complaint, Defendant communicated using the name State Collection Service with more than one hundred Washington residents.

8.9. The interest of the class members in individually controlling the presentation of separate claims against the Defendant is small because

1 the amount of damages recoverable in a FDCPA, WCAA, and CPA
2 damages case is relatively small.

3 8.10. Certification of a class pursuant to Fed.R.Civ.Pro 23(b)(3) is
4 appropriate. A class action is the only appropriate means of resolving
5 this controversy because the class members are not aware of their
6 rights, the class is comprised of a largely vulnerable population, and the
7 amount of available damages for many of the class members may be
8 relatively small. In the absence of a class action, a failure of justice will
9 result.

10 8.11. Certification of a class pursuant to Fed.R.Civ.Pro. 23(b)(2) is also
11 appropriate. Defendant acted on grounds generally applicable to the
12 class, making declaratory relief appropriate with respect to the class as
13 a whole.

14 IX. DEMAND

15 WHEREFORE, Plaintiff demands judgment as follows:

16 9.1. Statutory damages pursuant to the FDCPA, 15 U.S.C. § 1692k(a)(2);

17 9.2. Actual damages sustained under the FDCPA, WCAA, and/or CPA;

18 9.3. Treble damages pursuant to the CPA, RCW 19.86.090;

19 9.4. Costs and reasonable attorney's fees pursuant to the FDCPA, 15 U.S.C.

20 § 1692k(a)(3), and/or the CPA, RCW 19.86.090;

